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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,907

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Michael I. Rosenfelt

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EXAMINER

LEE, JUSTIN YE

ART UNIT

PAPER NUMBER

2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/805,907

Applicant(s)

ROSENFELT ET AL.

Examiner

Justin Y. Lee

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21-23, 25-34, 36, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21-23, 25-34, 36, 38 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 14 and 38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "after said email messages enter said primary email system", this limitation is not disclosed in the specification nor in the drawings.

3. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "event sink", this limitation is not disclosed in the specification nor in the drawings.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "said pre-specified alternate location" in claim 15, lines 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "said pre-specified alternate location" in claim 16, lines 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-10 and 25-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickup et al. (US 2003/0050984 A1).

Consider claims 1 and 25. Pickup et al. disclose a method and system for providing backup electronic messaging services to wireless devices during outages (Fig. 1), comprising:

sending email messages from a primary email system to a user's wireless device (paragraph 55 and 56, the email message is send from mail server 1 to wireless device through SMS server and cell network 10);

when said primary email system is unavailable, redirecting said email messages from said primary email system to a secondary email system and from said secondary email system to said user's wireless device (paragraph 57, when the mail server 1 fails the email is redirected to back up mail server 6 for storage and processing);

notifying said user that said email messages are available on said user's wireless device through said secondary email system at such time as said redirection of said email messages has been implemented (paragraph 15, the wireless device user is notified about the availability of the email that is being redirected to the backup mail server 6);

at such time as said primary email service becomes available, redirecting said email messages from said secondary email system to said primary email system and from said primary email system to said user's wireless device (paragraph 57, the email messages are redirected back to the mail server 1 when mail server 1 is becoming available);

notifying said user that said email messages are available on said user's wireless device through said primary email system at such time as said redirection of said email messages has been implemented (paragraph 15, the wireless device user is notified about the email messages that are directed to the mail server 1); and

synchronizing said email messages received on said secondary email system while said primary email system was unavailable with the messages in said primary email system (paragraph 55-57, the backup system 5 receives redirected email immediately after the mail server 1 fails, therefore the redirected email is the same email as the email that is going to be directed to the mail server 1 at the time the mail server 1 is failed).

Consider claims 2 and 26. Pickup et al. also disclose wherein said primary email system is located remotely from said secondary email system and is interconnected to said secondary email system through the Internet (Fig. 1 and paragraph 54 and 57).

Consider claims 3 and 27. Pickup et al. also disclose wherein the determination of when said primary email system is unavailable is performed manually by assessing whether an error message has been received indicating an inability to deliver an email message to said primary email system (paragraph 57).

Consider claims 4 and 28. Pickup et al. also disclose wherein said email messages to all addresses on said primary email system are automatically redirected to said secondary email system at any time any of said email addresses on said primary email system are unavailable (paragraph 57).

Consider claims 5 and 29. Pickup et al. also disclose wherein said email messages to all email addresses on said primary email system are redirected to said secondary email system after some, but less than all, of said email messages are unavailable (paragraph 57).

Consider claims 6 and 30. Pickup et al. also disclose wherein said step of notifying said user that said email messages are available on said secondary email system further includes the automated delivery of a preexisting notification email message to an alternate email address for said users (paragraph 57).

Consider claims 7 and 31. Pickup et al. also disclose wherein assessing the time at which said primary email system is available includes periodically pinging email addresses on said primary email system and evaluating whether a response is received from said email addresses (paragraph 57).

Consider claims 8 and 32. Pickup et al. also disclose wherein said notification of said user that said email messages are again available on said primary email system consists of the automated delivery of a preexisting notification email message to an alternate email address for said user (paragraph 57).

Consider claims 9 and 33. Pickup et al. also disclose wherein the ability to redirect said email messages from said primary email system to said secondary email system is password protected (paragraph 55).

Consider claims 10 and 34. Pickup et al. also disclose wherein one or more of said wireless devices is selected from the group consisting of personal digital assistant devices, cell phones and pagers (paragraph 56).

8. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Pickup et al. (US 2003/0050984 A1).

Consider claim 11. Pickup et al. disclose a method for intercepting and redirecting email messages to wireless devices (Fig. 1), comprising:

Intercepting email messages responsive to detection of an outage of a primary email system prior to said email messages passing through a company's firewall, wherein said step of intercepting is performed during said outage of the primary email system (paragraph 57, if mail server 1 fails, the email will be redirected before entering fire wall 17);

Redirecting said email messages to a pre-specified alternate location (paragraph 57); and

Delivering said email messages from said pre-specified alternate location to said wireless devices (paragraph 57).

9. Claims 15 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickup et al. (US 2003/0050984 A1).

Consider claims 15 and 39. Pickup et al. disclose intercepting, responsive to detection of an outage of a primary email system, email messages directed to non-functioning addresses within the primary email system on a real-time basis, wherein said step of intercepting is performed during said outage of the primary email system (paragraph 57);

Redirecting said email messages to a pre-specified alternate location (paragraph 25); and

Delivering said email messages from said pre-specified alternate location to said wireless devices (paragraph 57).

10. Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Pickup et al. (US 2003/0050984 A1).

Consider claim 16. Pickup et al. disclose intercepting, responsive to detection of an outage of a primary email system, email messages intended for the primary email system within an email application through the use of an event sink designed to inspect email message traffic (paragraph 15 and 57);

Redirecting said email messages to a pre-specified alternate location (paragraph 25); and

Delivering said email messages from said pre-specified alternate location to said wireless devices (paragraph 57).

11. Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Pickup et al. (US 2003/0050984 A1).

Consider claim 18. Pickup et al. disclose changing a domain name system designation of a primary email system responsive to detection of an outage of the primary email system (paragraph 57, the domain name need to be changed in order to redirect an email message to a different server);

Directing inbound email messages to an alternate facility (paragraph 57); and

Delivering said email messages from said alternate facility to said wireless devices (paragraph 57).

12. Claims 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Pickup et al. (US 2003/0050984 A1).

Consider claim 19. Pickup et al. disclose maintaining a mapping of alternate email addresses of the wireless devices (paragraph 57);

Delivering, via said alternate email address, the email messages to said wireless device responsive to detection of an outage of a primary email system (paragraph 57);

Wherein said step of delivering is performed during said outage of a primary path for delivering said email messages (paragraph 57).

Consider claim 21. Pickup et al. also disclose pulling messages from a mailbox within a secondary email system to the wireless device (paragraph 57).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 12, 13, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickup et al. (US 2003/0050984 A1) in view of Weatherby et al. (US 2004/0054741 A1).

Consider claims 12 and 36. Pickup et al. disclose a method and system for intercepting and redirecting email messages to wireless devices (Fig. 1), comprising:

Intercepting email messages responsive to detection of an outage of a primary email system before said email messages enter said primary email system, wherein said step of intercepting is performed during said outage of the primary email system (paragraph 57 and Fig. 1, email is intercepted before mail server 1);

Redirecting said email messages to a pre-specified alternate location (paragraph 25); and

Delivering said email messages from said pre-specified alternate location to said wireless device (paragraph 57).

Pickup et al do not disclose the interception happens after said email messages pass through a company's firewall.

Weatherby et al. further disclose the interception happens after said email messages pass through a company's firewall (Fig. 3 and paragraph 59, the email message are intercepted after firewall 325).

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to utilize the teachings of Weatherby et al. into the teachings of Pickup et al. for the purposes of filtering and monitoring emails (paragraph 18 and 19).

Consider claim 13. Pickup et al. and Weatherby et al. together disclose wherein said step of intercepting email messages after said email messages pass through a company's firewall operates integrally with the company's anti-virus or anti-spam

application (Pickup et al., paragraph 2 and 62 and Weatherby et al., Fig. 3 and paragraph 59 and 61).

14. Claims 14 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickup et al. (US 2003/0050984 A1) in view of Weatherby et al. (US 2004/0054741 A1).

Consider claims 14 and 38. Pickup et al. disclose intercepting email messages responsive to detection of an outage of a primary email system wherein said step of intercepting is performed during said outage of the primary email system (paragraph 57 and Fig. 1);

Redirecting said email messages to a pre-specified alternate location (paragraph 25); and

Delivering said email messages from said pre-specified alternate location to said wireless devices (paragraph 57).

Pickup et al. do not disclose after said email messages enter said primary email system, but before said email messages leave an Internet mail connector.

Weatherby et al. further disclose after said email messages enter said primary email system, but before said email messages leave an Internet mail connector (Fig. 3 and paragraph 59, the email redirected or copied to a backup server 370 is the same email that is already in the main server 365).

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to utilize the teachings of Weatherby et al. into the teachings of Pickup et al. for the purposes of filtering and monitoring emails (paragraph 18 and 19).

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pickup et al. (US 2003/0050984 A1) in view of Katsikas (US 2003/0191969 A1).

Consider claim 17. Pickup et al. disclose redirecting, responsive to detection of an outage of a primary email system, email messages intended to be delivered to said primary email system to a backup mail server and wherein said redirected email message have a low priority designation (paragraph 57, all the email messages are redirected to the backup mail server 6 regardless of priority, which includes lower priority designation).

Pickup et al. do not disclose a mail server can be a SMTP host.

Katsikas further disclose a mail server can be a SMTP host (paragraph 41).

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to utilize the teachings of Katsikas into the teachings of Pickup et al. for the purposes of an undefeatable spam control system (paragraph 5).

16. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickup et al. (US 2003/0050984 A1) in view of Katsikas (US 2003/0191969 A1).

Consider claims 22 and 23. Pickup et al. do not disclose wherein said mailbox is a pop3 mailbox or an imap4 mailbox.

Katsikas further disclose wherein said mailbox is a pop3 mailbox or an imap4 mailbox (paragraph 41).

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to utilize the teachings of Katsikas into the teachings of Pickup et al. for the purposes of an undefeatable spam control system (paragraph 5).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Y. Lee whose telephone number is (571) 272-5258. The examiner can normally be reached on M - F 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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